

21 APR 1970

Mr. Arthur B. Focke
General Counsel
Bureau of the Budget
Washington, D. C. 20503

Dear Mr. Focke:

Thank you for your letter of 16 April 1970 requesting our views with respect to the proposed order entitled "Amendment of Executive Order No. 10450 of April 27, 1953, relating to security requirements for Government employment."

The Central Intelligence Agency has no objection to the proposed order.

Sincerely,

151
John M. Maury
Legislative Counsel

Distribution:

Orig & 1 - Addse
1 - D/OS
1 - Subj
1 - Chrn

OLC/LLM:sml (20 Apr 70)

21 April 1970

NOTE FOR: Colonel White

The proposed executive order does two things:

(1) transfers from the Attorney General to the Subversive Activities Control Board the hearing function for determining whether an organization is totalitarian, fascist, communist, etc., thus removing the Attorney General from the position of being both prosecutor and judge;

(2) adds "violent-action" oriented to the specific types of organizations in which membership or affiliation has a bearing on Federal employment or retention consistent with the interest of national security. The elements of such an organization are identified in subsections (1) through (4) on page 3 of the proposed executive order. These elements include obstructing Federal recruitment efforts, impeding Federal officers, damaging or destroying property, causing personal injury and denying others their rights be they Federal, state or local.

The proposed reply was coordinated with Security, through DDS, and General Counsel.

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[Redacted]
[Redacted] John M. Maury
[Redacted] Legislative Counsel

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TRANSMITTAL SLIP		DATE 21 April 1970
TO: Colonel White LKW/BE		
ROOM NO.	BUILDING	
REMARKS: ↙ Return to OLC. Must be hand-carried to BOB before close of business today. <i>Rm. 238</i> <i>Old Exec Off</i> <i>Bel</i>		
FROM: OLC <i>ru</i>		
ROOM NO.	BUILDING	EXTENSION

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

20 APR 1970

MEMORANDUM FOR: Legislative Counsel

THROUGH : Deputy Director for Support

SUBJECT : Amendment of Executive Order
Number 10450

1. This Office has conducted a review of the proposed changes of Executive Order No. 10450. The inclusion in the Executive Order of the "violent-action oriented" organizations considerably extends the purview of Executive Order No. 10450. In addition, the proposed changes would extend the provisions of Executive Order No. 10450 to any State, Territory, District or possession thereof.

2. Based upon the comparison of the original Executive Order No. 10450 and the proposed changes to this Order, this Office finds no objections to the proposed changes as outlined nor does this Office have any substantive comments to make on the effect of these proposed overall changes.



Howard J. Osborn
Director of Security

Distribution:

Orig. & 1 - Adse
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DD/S 70-1623

20 APR 1970

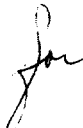
MEMORANDUM FOR: Legislative Counsel

THROUGH : Deputy Director for Support

SUBJECT : Amendment of Executive Order
Number 10450

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2. Based upon the comparison of the original Executive Order No. 10450 and the proposed changes to this Order, this Office finds no objections to the proposed changes as outlined nor does this Office have any substantive comments to make on the effect of these proposed overall changes.


Howard J. Osborn
Director of Security

Distribution:

Orig. & 1 - Adse
1 - DDS

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Amendment of Executive Order Number 10450

FROM: Director of Security Room 4E-60	EXTENSION <input type="checkbox"/>	NO.
	DATE 20 APR 1970	

TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		

1. Deputy Director for Support 7D-26

21 APR 1970

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Dg

Mr. Maury:

We probably should not offer any substantive comments as this concerns an internal security matter and will most likely become a political issue. As ☐ indicates, the Executive Order extends the scope of types of organizations and their activities to States, Territories, Districts and possessions. Should the order be approved I do not think it will affect us in any major degree. However, Section (j) wherein the Board shall issue appropriate regulations for the implementation of this section, may pose a real problem should the Board attempt to extend its field of interests to the internal processing of problem cases within the Executive Departments.

☐

R. L. Bannerman

99K 70-0592

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

April 16, 1970

Honorable Richard Helms
Director
Central Intelligence Agency
Washington, D.C. 20505

Attention: Mr. John Maury

Dear Mr. Helms:

In accordance with the provisions of Executive Order No. 11030, as amended, relating to proposed Executive orders and proclamations, the Director of the Bureau of the Budget has received from the Attorney General a proposed order entitled "Amendment of Executive Order No. 10450 of April 27, 1953, relating to security requirements for Government employment" (copies enclosed).

In transmitting the draft Executive order the Attorney General stated, in part:

The attached draft Executive Order would amend §12 of Executive Order 10450 for the purpose of transferring to the S.A.C.B. from the Attorney General the function of holding hearings on the application of the Attorney General to determine whether "any organization is totalitarian, fascist, communist, subversive, or violent-action oriented, or whether it has adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights

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under the Constitution or laws of the United States or of any state, or which seeks to overthrow the government of the United States or any state or subdivision thereof by unlawful means.

Under the present Executive Order this responsibility rests with the Attorney General who is thus cast in the unfortunate role of being both prosecutor and judge. The new draft also adds a new criterion in order to reach violent-action organizations.

Because of the constitutional and procedural problems involved no new organizations have been added to the list since 1955. The emergence of violent-action organizations of the extreme left and right has caused a reexamination of the problem and this draft Executive Order is the result. This Department believes the time has come to reactivate this program.

The list of organizations is prepared for the information of Federal civilian officers and employees and for the convenience of persons completing applications for Federal employment. Membership in or affiliation with a designated organization is one factor to be considered by the departments and agencies of the Federal Government in connection with the employment or retention in employment of individuals in Federal service.

The Director of the Bureau of the Budget would appreciate receiving an expression of your views with respect to this matter not later than Tuesday, April 20, 1970.
21

Sincerely yours,

Walter B. Jones
General Counsel

Enclosures

Executive Order

Amendment of Executive Order No. 10450 of April 27, 1953, Relating to Security Requirements for Government Employment.

By virtue of the authority vested in me by the Constitution and statutes of the United States including 5 U.S.C. Sections 1101 et seq., 3301, 3333, 3571, 7301, 7311, 7501(c), 7512, 7532 and 7533 and 18 U.S.C. 1918; and as President of the United States, and finding such action necessary in the best interests of national security, it is hereby ordered that Executive Order No. 10450 of April 27, 1953, as amended, is hereby further amended as follows:

1. Paragraph (5) of Section 8(a) shall read:

"(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organization) which is totalitarian, fascist, communist, subversive, or violent-action oriented, or which has adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any state, or which seeks to overthrow the government of the United States or any state or subdivision thereof by unlawful means.

2. Section 12 shall read:

"(a) Executive Order No. 9835 of March 21, 1947, as amended is hereby revoked.

"(b) The head of each department and agency shall be furnished by the Attorney General with the name of each organization which shall be or has been heretofore designated under this order. Except as specifically provided hereafter, nothing contained herein shall be construed in any way to affect previous designations made pursuant to E.O. 10450, as amended.

"(c) The Subversive Activities Control Board shall, upon petition of the Attorney General, conduct appropriate hearings to determine whether any organization is totalitarian, fascist, communist, subversive, or violent-action oriented, or whether it has adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any state, or which seeks to overthrow the government of the United States or any state or subdivision thereof by unlawful means.

"(d) The Board may determine an organization to be 'violent-action oriented' if it is found that such group engages in, advocates, or has among its purposes or objectives, or adopts as a means of obtaining any of its purposes or objectives, --

(1) the commission of acts of force or violence or other unlawful acts to deny others their rights or benefits guaranteed by the Constitution or laws of the United States or of the several states or political subdivisions thereof; or

(2) the unlawful damage or destruction of property; or injury to persons; or

(3) the overthrow or destruction of the government of the United States or the government of any State, Territory, district, or possession thereof, or the government of any political subdivision therein, by unlawful means; or

(4) the commission of acts which violate laws pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States, or related crimes or offenses.

"(e) The Board may determine an organization to be 'totalitarian' if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is autocratic and in which control is centered in a single individual, group, or political party, allowing no effective representation to opposing individuals, groups, or parties and providing no practical opportunity for dissent.

"(f) The Board may determine an organization to be 'fascist' if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is characterized by rigid one-party dictatorship, forcible suppression of the opposition, ownership of the means of production under centralized governmental control and which fosters racism.

"(g) The Board may determine an organization to be 'communist' if it is found that such organization engages in activities which seek by unlawful means the establishment of a government in the United States which is based upon the revolutionary principles of Marxism-Leninism, which interprets history as a relentless class war aimed at the destruction of the existing society and the establishment of the dictatorship of the proletariat, the government ownership of the means of production and distribution of property, and the establishment of a single authoritarian party.

"(h) The Board may determine an organization to be 'subversive' if it is found that such organization engages in activities which seek the abolition or destruction by unlawful means of the government of the United States or any state, or subdivision thereof.

"(i) The Board may further determine, after consideration of the evidence, that an organization has ceased to exist. Upon petition of the Attorney General or upon petition of any organization which has been designated pursuant to this section the Board after appropriate hearings may determine that such organization does not currently meet the standards for designation. The Attorney General shall appropriately revise or modify the information furnished to departments and agencies consistent with the determinations of the Board.

"(j) The Board shall issue appropriate regulations for the implementation of this section."

NOTE: Text above is as received by the Director of the Bureau of the Budget from the Attorney General April 15, 1970.

DRAFT: Alternate Response
LLM/21 Apr 70

21 APR 1970

Mr. Arthur B. Focke
General Counsel
Bureau of the Budget
Washington, D. C. 20503

Dear Mr. Focke:

Thank you for your letter of 16 April 1970 requesting our views with respect to the proposed order entitled "Amendment of Executive Order No. 10450 of April 27, 1953, relating to security requirements for Government employment."

Since the subject matter of the proposed order deals with internal security, we have no comments to offer.

Sincerely,

John M. Maury
Legislative Counsel

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

	UNCLASSIFIED		CONFIDENTIAL		SECRET
OFFICIAL ROUTING SLIP					
TO	NAME AND ADDRESS		DATE	INITIALS	
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	ACTION		DIRECT REPLY	PREPARE REPLY	
	APPROVAL		DISPATCH	RECOMMENDATION	
	COMMENT		FILE	RETURN	
	CONCURRENCE		INFORMATION	SIGNATURE	
Remarks: <p style="text-align: center;">We have to respond by cob Tuesday and would appreciate your suggestions re Agency position by cob Monday, 20 April 1970.</p>					
FOLD HERE TO RETURN TO SENDER					
FROM: NAME, ADDRESS AND PHONE NO.					DATE
OLC 7D43					17 Apr 70
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UNCLASSIFIED	CONFIDENTIAL	SECRET	
OFFICIAL ROUTING SLIP			
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	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
Remarks: We have no comments to offer on the proposed Executive Order. This seems to be entirely an internal security matter. I would assume that Security will have no suggested comments although you will be hearing from them directly. I can hear the screams of anguish, however, if this ever gets published.			
<div style="border: 1px solid black; width: 150px; height: 30px; margin: 0 auto;"></div> <div style="border: 1px solid black; width: 100px; height: 30px; margin: 0 auto; text-align: center;">John/S. Warner</div>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
Deputy General Counsel			4/20/70
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